

**AUCTIONEER BOARD
MINUTES
JULY 19, 2005**

PRESENT: Jay Clarke, Alan Hager, Patrick McNamara, Mark Shain, Marie Skic, Carl Theorin, and Timothy Sweeney (via telephone)

STAFF PRESENT: Kimberly Nania, Division Administrator; Ruby Jefferson-Moore, Legal Counsel; Pat Schenck, Program Assistant; and Division of Enforcement Staff.

GUESTS: Maxine O'Brien (via telephone)
Tony Driessen, Attorney, Quarles Brady LLP, E-Bay
Joe Sullivan, Attorney, E-Bay
Barbara Hager

CALL TO ORDER

Mark Shain, Chair, called the meeting to order at 9:17 a.m. A quorum of seven members was present.

AGENDA

Amendments to Agenda:

- Add case closing 04 AUC 016 to item 11. b. vi.

MOTION: Jay Clarke moved, seconded by Alan Hager, to adopt the agenda with additions. Motion carried unanimously.

APPROVAL OF MINUTES APRIL 19, 2005

MOTION: Patrick McNamara moved, seconded by Alan Hager, to approve the minutes of April 19, 2005 as written. Motion carried unanimously.

**ADMINISTRATIVE REPORT
KIMBERLY NANIA, DIVISION ADMINISTRATOR**

Kimberly Nania introduced herself as the Division Administrator of Board Services and stated that she is temporarily stepping in as the Bureau Director of Business and Design Professions until a new Bureau Director is appointed.

Governor Doyle appointed Celia Jackson as the new Secretary of the Department. The Secretary will be meeting with each Board. Larry Martin replaced Chris Klein as the legislative liaison with the Department.

Ms. Nania updated the Board on the building renovation project.

2006 Meeting Dates

The Board requested two changes in the meeting dates scheduled for 2006. The dates were changed as requested.

MOTION: Alan Hager moved, seconded by Marie Skic, to approve the 2006 meeting dates as scheduled. Motion carried unanimously.

Summary Reports on Pending Court Cases, Disciplinary Cases and Administrative Rules and Press Releases

Noted.

PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT

Angela Arrington, Attorney presented the following proposed stipulations.

- i. Vernon W. Wheat 02 AUC 034, 03 AUC 001, 03 AUC 005 and 03 AUC 013
- ii. United States Liquidators, Inc. 02 AUC 034, 03 AUC 001, 03 AUC 005 and 03 AUC 013
- iii. Rabin Worldwide 02 AUC 022

LEGISLATION AND ADMINISTRATIVE RULES

RL 128 – Review and Approval of Scope Statement

The Board reviewed the scope statement regarding identification and approval of the subject-matter areas or topics for continuing education courses required for auctioneers. The change would maintain the 3-hour ethics course and eliminate the specific subject-matter topics identified in the rules. The Department will identify and approve the subject-matter areas or topics biennially. Changes included adding approximately 10 hours of state employee time and the entities affected by the rules.

MOTION: Patrick McNamara moved, seconded by Carl Theorin, to approve the scope statement with revisions. Motion carried unanimously.

480.08(6) Requiring Auction Company Representatives to take Continuing Education - Review and Discussion

The request for legislation requiring auction company representatives to take continuing education was approved by the Department. Ms. Nania will follow-up on the status of this legislation request.

MOTION: Carl Theorin moved, seconded by Patrick McNamara, to adopt the request for legislation requiring auction company representatives to take continuing education. Motion carried unanimously.

Review and Discuss Request for Legislation Relating to Requiring Auction Clerks/Cashiers to be Employed by Auctioneers or Auction Companies

The Board discussed the request for legislation relating to requiring auction clerks/cashiers to be employed by auctioneers or auction companies.

MOTION: Carl Theorin moved, seconded by Patrick McNamara, to table the request for legislation relating to requiring auction clerks/cashiers to be employed by auctioneers or auction companies. Motion carried unanimously.

PRACTICE

Discussions and Recommendations Relating to the Regulation of On-line Auctions

Attorney Tony Driessen, Quarles & Brady LLP addressed the Board to answer questions regarding auctions on eBay. The Board is interested in how Texas and Illinois are handling eBay auctions and would like a national perspective regarding eBay auctions.

Joe Sullivan, Attorney for eBay, addressed the Board to answer questions regarding on-line auctions on eBay and stated that even though fraud is extremely insignificant they are always working to eliminate it, reimburse for losses, and are getting better at detection.

There are two ways to sell products on eBay. A live auction must have a licensed auctioneer. eBay will look to the state where the auction is located and leave the regulations to the individual state. Unlicensed auctioneers cannot conduct a live auction on eBay. Many people make their living by selling products on eBay.

The Board discussed storefront operations that collect and sell products on eBay and that storefronts are doing the same thing that an auctioneer or auction house does. Atty. Sullivan noted that eBay has not received any complaints regarding storefronts selling products on eBay.

eBay requires that storefronts meet regulations pertaining to what they are selling. The Board noted that an auctioneer may sell real estate at an auction without having a real estate license.

Mr. Sullivan reported on how PayPal works with an eBay purchase. PayPal accepts the money from the buyer, transfers the money to the seller, is a regulated entity, and provides buyer protection.

The Board discussed what level of regulations to impose on e-stores, who should regulate storefront operations and that a number of auctioneers and auction companies are opening up e-stores and selling on-line.

Legal Opinion from William Dusso, Dated January 14, 2004

The Board reviewed and discussed the legal opinion from William Dusso regarding on-line auctions.

MISCELLANEOUS INFORMATION/CORRESPONDENCE

None.

NEW BUSINESS

None.

VISITORS COMMENTS

None.

CLOSED SESSION

MOTION: Marie Skic moved, seconded by Jay Clarke, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), and (f), Wis. Stats., to consider the licensing or discipline of a person licensed by the Department or the investigation of charges against such a person. Specifically, the Board intends to deliberate on stipulations, administrative warnings, case closings, and monitoring cases. Motion carried by a roll call vote: Marie Skic-yes; Jay Clarke-yes; Patrick McNamara-yes; Alan Hager-yes; and Mark Shain-yes; Timothy Sweeney-yes; Carl Theorin-yes. Motion carried unanimously.

Open Session recessed at 11:17 a.m.

The Board deliberated on the Monitoring Report, the Case Status Report and Case Closings, Proposed Stipulations, and Proposed Administrative Warnings.

RECONVENE TO OPEN SESSION

MOTION: Jay Clarke moved, seconded by Carl Theorin, to reconvene into Open Session at 11:36 a.m. Motion carried unanimously.

**VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED
SESSION, IF VOTING IS APPROPRIATE**

MONITORING ISSUES

None

CASE CLOSINGS

04 AUC 008

MOTION: Carl Theorin moved, seconded by Jay Clarke, to close case **04 AUC 008** for prosecutorial discretion (P5). Patrick McNamara, Case Advisor. Motion carried unanimously.

02 AUC 016

MOTION: Carl Theorin moved, seconded by Jay Clarke, to close case **02 AUC 016** for no violation. Jay Clarke, Case Advisor. Motion carried unanimously.

02 AUC 035

MOTION: Patrick McNamara moved, seconded by Jay Clarke, to close case **02 AUC 035** for insufficient evidence. Patrick McNamara, Case Advisor. Motion carried unanimously.

04 AUC 003

MOTION: Patrick McNamara moved, seconded by Alan Hager, to close case **04 AUC 003** for insufficient evidence. Patrick McNamara, Case Advisor. Motion carried unanimously.

03 AUC 018

MOTION: Patrick McNamara moved, seconded by Jay Clarke, to close case **03 AUC 018** for insufficient evidence. Patrick McNamara, Case Advisor. Motion carried unanimously.

04 AUC 016

MOTION: Carl Theorin moved, seconded by Jay Clarke, to close case **04 AUC 016** for prosecutorial discretion (P1). Timothy Sweeney, Case Advisor. Motion carried unanimously.

ADMINISTRATIVE WARNINGS

JANET M. ZASTROW - 02 AUC 035, 03 AUC 009

MOTION: Carl Theorin moved, seconded by Patrick McNamara, to approve the administrative warning in the matter concerning **Janet M. Zastrow 02 AUC 035** and **03 AUC 009** as written. Jay Clarke, Case Advisor. Motion carried unanimously.

ROGER D. MORSE -04 AUC 015

MOTION: Carl Theorin moved, seconded by Alan Hager, to approve the administrative warning in the matter concerning **Roger D. Morse 04 AUC 015** as written. Jay Clarke, Case Advisor. Motion carried unanimously.

STIPULATIONS

VERNON W. WHEAT 02 AUC 034, 03 AUC 001, 03 AUC 005 AND 03 AUC 013

MOTION: Carl Theorin moved, seconded by Patrick McNamara, to adopt the Stipulation, Findings of Fact, Conclusions of Law and Order in the matter concerning **Vernon W. Wheat 02 AUC 034, 03 AUC 001, 03 AUC 005 and 03 AUC 013**. Carl Theorin, Case advisor. Motion carried unanimously.

UNITED STATES LIQUIDATORS, INC. 02 AUC 034, 03 AUC 001, 03 AUC 005 & 03 AUC 013

MOTION: Carl Theorin moved, seconded by Alan Hager, to adopt the Stipulation, Findings of Fact, Conclusions of Law and Order in the matter concerning **United States Liquidators, Inc. 02 AUC 034, 03 AUC 001, 03 AUC 005 & 03 AUC 013**. Carl Theorin, case advisor. Motion carried unanimously.

RABIN WORLDWIDE 02 AUC 022

MOTION: Marie Skic moved, seconded by Patrick McNamara, to adopt the Stipulation, Findings of Fact, Conclusions of Law and Order in the matter concerning **Rabin Worldwide 02 AUC 022**. Jay Clarke, case advisor. Motion carried unanimously.

OTHER ITEMS AS DEFINED BY LAW

None

ADJOURNMENT

MOTION: Carl Theorin moved, seconded by Patrick McNamara, to adjourn the meeting at 11:44 a.m. Motion carried unanimously.

Next Meeting October 25, 2005